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# UNITED STATES BANKRUPTCY COURT

## DISTRICT OF NEVADA

In re:  
 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

Case No. BK-S-06-10725 LBR  
 Case No. BK-S-06-10726 LBR  
 Case No. BK-S-06-10727 LBR  
 Case No. BK-S-06-10728 LBR  
 Case No. BK-S-06-10729 LBR

In re:  
 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

Chapter 11

In re:  
 USA CAPITAL DIVERSIFIED TRUST DEED  
 FUND, LLC,  
 Debtor.

Jointly Administered Under  
 Case No. BK-S-06-10725-LBR

In re:  
 USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 Debtor.

**DECLARATION OF SUSAN M.  
 SMITH IN SUPPORT OF THE  
 OFFICIAL COMMITTEE OF  
 EQUITY SECURITY HOLDERS  
 OF USA CAPITAL DIVERSIFIED  
 TRUST DEED FUND, LLC'S  
 OBJECTION TO CLAIM NOS. 84,  
 85, 118, and 119 FILED AGAINST  
 USA CAPITAL DIVERSIFIED  
 TRUST DEED FUND, LLC, BY  
 KAREN PETERSEN TYNDALL**

In re:  
 USA SECURITIES, LLC,  
 Debtor.

Affects:  
☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Securities, LLC  
☐ USA Capital Realty Advisors, LLC  
☒ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA First Trust Deed Fund, LLC

1 I, Susan M. Smith, hereby declare, verify and state as follows:

2 1. I am over the age of 18, am mentally competent, have knowledge of the facts in this  
3 matter, except where noted as upon information and belief, and if called upon to do so, could and  
4 would testify.

5 2. I am a Senior Vice President with the firm of Mesirow Interim Financial Management  
6 (MFIM); MFIM has been employed since April 13, 2006 (the "Petition Date") to manage each of the  
7 debtors (collectively, the "Debtors") in the above-captioned chapter 11 cases.

8 3. As a result, I have become familiar with the books and records of the Debtors,  
9 including the books and records of USA Commercial Mortgage Company ("USACM"), as the Loan  
10 Servicer for the Direct Lenders, and the books and records of USA Capital Diversified Trust Deed  
11 Fund, LLC ("Diversified"). In particular, and I have reviewed claim nos. 84, 85, 118, and 119,  
12 including the supporting documents attached thereto, as filed against Diversified by Karen Petersen  
13 Tyndall (the "Tyndall Direct Lender Claims"). Based upon this information, I state the following  
14 facts as being true to the best of my knowledge:

15 4. I make this Declaration in support of the Official Committee of Equity Holders of  
16 USA Capital Diversified Trust Deed Fund, LLC's objection to the Tyndall Direct Lender Claims.

17 5. Claim nos. 118 and 119 are duplicates of claim nos. 84 and 85.

18 6. While Ms. Tyndall is a member of Diversified, the Tyndall Direct Lender Claims are  
19 based upon Ms. Tyndall's investments in specific first trust deeds serviced by USACM ("First Trust  
20 Deed Investments"). These First Trust Deed Investments have no connection to Diversified.


21 7. Specifically, claim no. 84 (and 118) asserts a claim related to Ms. Tyndall's holdings  
22 in the vesting name "Karen Petersen Tyndall Trustee of the KPT Irrevocable Trust dated 7/16/99"  
23 and holding interests in First Trust Deed Investments known as "Gramercy Court Condos" and "I-40  
24 Gateway West." These First Trust Deed Investments are separate and apart from Ms. Tyndall's  
25 membership interest in Diversified.

26 8. Claim no. 85 (and 119) asserts a claim related to Ms Tyndall's holdings in the vesting  
27 name "Karen Petersen Tyndall Trustee of the Karen Petersen Tyndall Trust dated 3/19/94" and  
28 holding interests in First Trust Deed Investments known as "Bundy Canyon \$5,000,000," "HFA N-

1 Yonkers,” “I-40 Gateway West,” “Marlton Square,” and “Slade Development.” These First Trust  
2 Deed Investments are separate and apart from Ms. Tyndall’s membership interest in Diversified.

3 I declare under penalty of perjury under the laws of the United States of America that the  
4 forgoing is true and correct.

5 Executed this 29th day of January 2007.

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8 SUSAN M. SMITH  
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